

**JUN 16 2006**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

HAROLD JAMES GRIFFITH,

Plaintiff - Appellant,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Defendant - Appellee.

No. 04-55702

D.C. No. CV-91-04108-TJH

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Terry J. Hatter, Chief District Judge, Presiding

Submitted June 7, 2006\*\*  
Pasadena, California

Before: THOMAS and GOULD, Circuit Judges, and SCHWARZER\*\*\*, District  
Judge.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable William W Schwarzer, Senior United States District Judge for the Northern District of California, sitting by designation.

Harold James Griffith appeals the district court's denial of his recent motion for reinstatement of his 1991 action seeking Social Security benefits.

Because the parties are familiar with the history of the case, we will not recount it here. We review the district court's denial of reinstatement following dismissal for failure to prosecute for abuse of discretion, *Hicks v. Bekins Moving & Storage Co.*, 115 F.2d 406, 408-09 (1940), and we affirm.

The district court was well within its discretion to hold that Griffith's explanation for his near eleven-year delay in challenging the dismissal for failure to prosecute was inadequate. Griffith's explanation that he lacked funds, and was unable to retain counsel despite numerous attempts – after his action was dismissed – does not justify his failure to explain his situation to the court or to seek relief for more than a decade. Given this decision, we need not reach the alternative holding of the district court rejecting the claim on the basis of the statute of limitations.

We lack appellate jurisdiction over Griffith's attempted appeal of the district court's vacation of his summary judgment motion. “[I]nterlocutory orders, generally appealable after final judgment, are not appealable after a dismissal for failure to prosecute, whether the failure to prosecute is purposeful or is a result of negligence or mistake.” *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1386 (9th Cir. 1996).

**AFFIRMED.**